

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

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Original Application No. 389/93.

~~XXXXXXXXXXXXXXXXXXXX~~  
~~Transfer Application No.~~

Date of Decision AUGUST 31, 1995.

Smt. P. M. Dakshayani, Petitioner/s

Shri P. Shankarnarayanan, Advocate for  
the Petitioners

Versus

Union Of India & Others, Respondent/s

Shri J. P. Deodhar, Advocate for  
the Respondents

CORAM :

Hon'ble Shri. Justice M. S. Deshpande, Vice-Chairman.

Hon'ble Shri. P. P. Srivastava, Member (A).

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to  
other Benches of the Tribunal ?

  
(M. S. DESHPANDE)  
VICE-CHAIRMAN.

ORIGINAL APPLICATION NO.: 389/93.

Smt. P. M. Dakshayani ... Applicant

Versus

Union Of India & Others ... Respondents.

CORAM :

Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

Hon'ble Shri P. P. Srivastava, Member (A).

APPEARANCE :

1. Shri P. Shankarnarayanan,  
Counsel for the applicant.
2. Shri J. P. Deodhar,  
Counsel for the respondents.

ORAL JUDGEMENT

DATED : AUGUST 31, 1995.

Per.: Shri M. S. Deshpande, Vice-Chairman

1. By the present application the applicant challenges the Selection for the post of Private Secretary held on 10.09.1991 and her rejection for that post.
2. It is not necessary to set out the details. The applicant was one of the four candidates who was considered for selection to the post of Private Secretary. The process of selection comprises of assessment on the basis of service records and an interview for which 50% marks had been allotted for each. The applicant was considered but not selected. According to the Learned Counsel for the applicant, the interviews should not have been held in view of the holding Notification dated 10.03.1989 because ~~of~~ interviews had not

been prescribed under the rules, as required under the notification and further, the allotment of 50% marks for the interview was also arbitrary. The Respondents contention is that the selection was made on the basis of the assessment of the performance of the candidates on the basis of service records as well as interview and for each, 50 % marks has been set out. It is further urged that since the Departmental Promotion Committee had decided to regulate the selection by also holding an interview, there was no non-compliance with the notification dated 10.03.1989.

3. The respondents relied on the notification dated 10.03.1989 (annexure R-II to the reply). The Learned Counsel for the applicant urged that he was not aware of the exact rules which <sup>were</sup> prescribed for selection to the post of Private Secretary but even if the selection were to be held on the basis of the notification dated 10.03.1989, which in his submission should govern the selection, the selection by means of an interview would be vitiated.

4. The opening portion of the notification no. F.22011/5/86-Estt.D issued by the Department of Personnel and Training, Government Of India, on 10.03.1989 provides -

"The undersigned is directed to say that in modification of existing instructions issued in regard to the subject mentioned above, the following procedure shall be observed by the Departmental Promotion Committees :-

Each Departmental Committee should decide its own method and procedure for objective assessment

of the suitability of the candidates. No interviews should be held unless it has been specifically provided for in the recruitment rules for the post/service. Whenever promotions are to be made by the method of 'selection' by DPC and the administrative ministry desires that an interview should form part of the selection process, necessary provision should be made in the recruitment rules."


It is an admitted position that no recruitment rules have so far been framed by the respondents for selection to the post of Private Secretary and the selection would therefore be governed by the above instructions. The concession given to each Departmental Committee to decide its own method and procedure would be subject to the mandatory provision, negatively couched, which says that no interview should be held unless it has been specifically provided for in the recruitment rules for the post/service. In the present case, since the interview has not been specifically provided for, the Departmental Committee could not have held the interview for the purpose of selection. The further sentence shows that if the administrative ministry desires that an interview should form part of the selection process, necessary provision should be made in the recruitment rules. Therefore, in the absence of rules permitting interviews, there was an express ban on holding interview and any selection made on the basis of interview or partly on the basis of consideration of service records and interviews would vitiate the entire process.

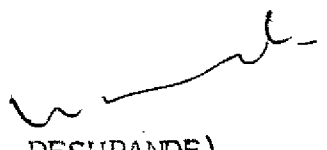
5. This was the view which had been taken also in Shri S. Srinivasan & Others V/s. Union Of India & Ors.

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in O.A. No. 123/91 decided on 12.01.1995 wherein after considering the contentions of the parties, we saw no justification for the department to hold an interview for selection. The earlier decision was also a subject matter of the review petition before us in R.P. No. 51/95 decided on 31.05.1995 and the review petition was dismissed.

6. The other points need not be decided, as the petitioner succeeds on the above preliminary point. We, therefore, quash the regular selection made pursuant to the D.P.C. recommendations dated 24.01.1992. The respondents would be free to make a fresh selection in accordance with rules. The O.A. is disposed of. No order as to costs.

  
(P.P. SRIVASTAVA)  
MEMBER (A).

  
(M. S. DESHPANDE)  
VICE-CHAIRMAN.